

The Palestinian Legislative Council

Draft

Investment Incentive Law

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Introduced by:	Members of the Council
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Chapter One

Definitions and General Provisions

The following expressions defined by this law shall have the following meanings unless stated otherwise:

National Authority:	The Palestinian National Authority
Council of Ministries:	The PNA Council of Ministries
Ministry:	Ministry of Economy and Trade
Minister:	Minister of Economy and Trade
Board:	The Palestinian board for investment incentive.
Board of directors:	Board of directors for the Palestinian Board for Investment Incentive.
Confidential Information:	All the information that the board receives from any investor regarding any dealings between them, which the investor would like to maintain as confidential according to provisions of this law.
Project:	Any entity established and registered properly according to the provisions of this law, whether for profit or non-profit purposes, including any company or branch or credit fund or partnership or individual ownership or joint venture or other institutions.

Investment: Direct financial spending by the investor in a project, whether this project is new or already existing.

Confirmation of investment: Approval issued by the board to one of the investors according to the provisions of this law.

Incentives: Exemptions and facilities granted according to the provisions of this law.

Investment Law: Law to encourage investments in Palestine.

Investor: Any natural or judicial person, investing or has already invested in Palestine according to the provisions of this law and all preceding laws.

Investment record: General record listing all the investments and investment projects approved or would be approved by the board.

Special Incentives Committee: A special committee formed by the board of directors. This committee reviews and evaluates requests submitted by the investors to confirm capital investment according to the provisions of this law.

Article (2)

This law shall be called “ Law for Investment incentive in Palestine”.

Article (3)

The Investment incentive law aims at achieving the goals and priorities of development in Palestine by increasing investments through:

- a- Establishing the board responsible for encouraging and facilitating investment in Palestine ;
- b- Presenting all investors and investments in Palestine with guarantees.
- c- Granting incentives to investors.
- d- Creating the appropriate atmosphere to encourage investment in Palestine.

Article (4)

According to the provisions of this law, an investor can invest in any project under any of the Palestinian economic sectors, unless specific laws prohibit it.

Article (5)

Projects enjoy exemptions and advantages as mentioned in the provisions of this law. Exemptions apply to all fields of investment except for the following sectors and fields that require prior approval of the Council of Ministries:

1. Manufacture and distribution of arms or their parts, and ammunition.
2. Air industries including airports.
3. Generation and distribution of electricity.
4. Re-processing of petrol and its by-products
5. Recycling of trash and solid wastes.
6. Telecommunication
7. Radio and Television

Article (6)

An investment shall be established and registered in Palestine as legally appropriate according to the provisions of this law.

Chapter two

General Guarantees

Article (7)

- a) No investor shall be excluded for any reason from enjoying privileges granted according to the provisions of this law.
- b) The National Authority may grant preferential treatment to investors based on the nationality according to commercial or investment bilateral or multilateral agreements with other countries on the principle of reciprocity, without prejudice to the rights of other investors.

Article (8)

Projects shall not be nationalized or confiscated, nor shall their money be seized or taken or frozen or confiscated or put under precaution except through the court.

Article (9)

Dispossession from all or part of projects' real estates is only allowed for the public benefit as stipulated by the law. This shall be done in return for a fair compensation of the value of the estate based on its market value and all other losses that might affect it as a result of the action of dispossession.

Article (10)

Except for certain cases stipulated by this law whereby the board can cancel the license of a given project, no other administrative party can cancel the license by benefiting from all or part of the estates licensed for the use of the project except after submitting the matter to the board for

opinion. The board should give its opinion on the matter within seven days from the date the request for an opinion is submitted. Cancellation of a license should only be for legal reasons or for the public benefit not based on any discrimination, and should provide for claiming compensations for losses through court.

Article (11)

Taking into consideration the provisions stated in article 12 of this law and in accordance with the free market economy, the National Authority will guarantee the right of all investors for non restricted transfer of all financial resources outside Palestine, including the capital, profits, share-profits, capital profits, salaries, wages, benefits, credit installments, management and technical assistance fees, any other fees, compensation money for dispossession of estates or cancellation of license or decisions and judicial or arbitration rulings or any other payments or financial resources. Investors are allowed to transfer all the financial resources outside Palestine based on the market exchange rates, valid at the time of transfer using a currency that is transferable and acceptable to the investor.

Article (12)

The National Authority might impose restrictions on the transfer of financial resources on an investor who falls under any of the following provisions:

- a) Palestinian bankruptcy laws and any other laws that aim at protecting the rights of creditors.
- b) Palestinian laws regarding issuance of or dealing or trading with financial papers.
- c) Palestinian penal codes.
- d) Palestinian tax laws.
- e) Palestinian laws relating to declaring of currency exchange or any other financial documents.
- f) Prohibition orders or final rulings of Palestinian judicial or arbitration parties.

Chapter 4

The Board

Article (13)

By provisions of this law, a board is to be established under the name of “Palestinian Board for Investment Incentive”. The board shall be an independent judicial person and shall enjoy full legal jurisdiction to ensure its capacity to achieve and practice all its activities according to the provisions of this law.

Article (14)

The main headquarter of the Palestinian Investment incentive Board shall be in Jerusalem, and the temporary headquarter in any location determined by the National Authority.

Article (15)

- a) A board of directors consisting of 13 voting members shall manage the Palestinian Investment incentive Board. These are :
1. Minister of Economy and Trade (chair)
 2. Representative of :
 - a. Ministry of Finance (Deputy)
 - b. Ministry of Agriculture
 - c. Ministry of Tourism
 - d. Ministry of Housing
 - e. Ministry of Planning and International Cooperation
 - f. Monetary Authority
 3. Five representatives of the Palestinian private sector to assume their functions in an independent manner.

- b) The five representatives of the private sector are appointed in their representative capacity by a decision of the Council of Ministries upon the recommendation of the board of directors.
- c) Members of the private sector at the board of directors occupy their position during the period stated in the regulations.

Article (16)

The Board of Directors shall have the following tasks and responsibilities:

- 1- Monitor and evaluate policies and investments.
- 2- Submit recommendations to the Council of Ministries and the Palestinian Legislative Council to amend the criteria of granting incentives, if necessary.
- 3- Attract foreign investors to Palestine.
- 4- Provide the Minister of Commerce and Trade and the Minister of Finance with consultation on Palestinian investment policy.
- 5- Issue of confirmations regarding investment.
- 6- Create and maintain a record for capital investment.
- 7- Monitor projects that benefit from incentives.
- 8- Appoint independent auditors to audit the board's financial statements.
- 9- Implement resolutions of the Council of Ministries regarding amendments to the criteria of granting incentives.
- 10- Monitor the implementation of the investment law and submit suggestions to the Council of Ministries and the Palestinian Legislative Council for necessary changes.
- 11- Monitor any Palestinian law or regulation that might limit, restrict or undermine any rights and guarantees stipulated by the investment law, and submit suggestions to the Council of Ministries and the Palestinian Legislative Council for changes of these laws and regulations.
- 12- Support the National Authority in abiding by any investment agreement that might be signed with another country or international organization.
- 13- Work closely with all relevant Palestinian bodies to ensure the setting of a unified national strategy to encourage investment.
- 14- Evaluate the performance of the body including the preparation of an annual report on the board's activities with all its audited financial statements.

- 15- Consider updating and developing investment legislation, approving plans and programs that contribute to the creation of an appropriate atmosphere for investment.
- 16- Issue an annual investment guidebook on investment opportunities in Palestine.
- 17- Freeze exemptions and preferences granted to investors who violate this law. The investor shall have the right to appeal the decision within 30 days.
- 18- Create a central unified center that provide services for the investors facilitating the completion of all the special procedures regarding their projects such as the license and others, in order to spare investors the bureaucratic procedures distributed among the various ministries and departments.
- 19- Approve personnel regulations of the board, and determine its organizational structure according to the civil service law.
- 20- Appoint consultants and experts for the board for limited terms approved by the board of directors.

Article (17)

- a- The board of directors meets regularly one time a least per month upon the call of its chair or his deputy in case of absence. The quorum required is two thirds of the members at least.
- b- The board can meet upon the written request of one third of its members five days prior to the date of the meeting. The meetings can be called within shorter notice, if necessary.
- c- For decisions to be passed a majority vote of members is required. In the case of equal votes, the chair has a preponderant vote.
- d- Debates are held in secret. However, with the agreement of all the members, debates could be declared open.

Article (18)

- a- The board shall have a director general appointed by the board of directors.
- b- The director general shall be a member of the board of directors, but shall not be able to vote.
- c- The director general is considered the executive director and shall assume the following tasks:

1. Implement the board's policies as defined by the board of directors
 2. Organize and monitor daily operations of the board
 3. Submit regular reports to the board of directors on the board's operations and performance.
 4. Participate in activities aiming at encouraging local and foreign investment in Palestine.
- d- The board of directors determines the salary and financial benefits of the director general.
- e- The director general shall not be part of or have direct or indirect benefit in any investment project.

Article (19)

The financial resources of the board consist of the following:

- 1- License fees for projects
- 2- Stamps fees paid for investment revenues
- 3- Fines collected according to the law.
- 4- Grants from other countries, international organizations and local and foreign non-governmental organizations.

Article (20)

All revenues and income of the board are transferred to a special account at the Ministry of Finance under the general treasury account. The board has its own budget under the general annual budget of the National Authority. All the expenses of the board are covered through this budget.

Article (21)

- a- The board shall have one or more auditors appointed by the board of directors to control and audit the books.
- b- The auditor shall have the right to access all the board's books, records and documents, and to request all the information necessary for his work. He shall be able to check and verify all the board's assets and liabilities.
- c- The auditor shall submit an annual report to the board of directors, who in his turn submit this report to the Council of Ministries.

Article (22)

- a- The board shall be responsible for the protection of all confidential information, except for the information revealed by the investment record or the registration of the projects according to the provisions of this law.
- b- The board prohibits any employee or official or member of the board of directors or staff member from revealing any confidential information to a person or party.
- c- The board shall not reveal any confidential information to any party or governmental official or individual without :
 - 1- Written approval of the investor
 - 2- Orders of a competent Palestinian court to reveal confidential information.

Chapter Four

Investment Incentives

Article (23)

Projects are granted the following exemptions for their fixed assets:

- a- Fixed assets are exempted from customs and taxes. The fixed assets shall be brought within the period determined by the board by approving the lists of a project's fixed assets. The board has the right to extend this period if it determines that the nature of the project and the volumes of work require that.
- b- Imported spare parts are exempted from customs and taxes, under the condition that their value does not exceed 15% of the fixed assets value. Spare parts shall be procured and used within a period determined by the board from the date the production or work begins, by approving lists of spare parts and their quantities.
- c- Fixed assets necessary to expand or develop or modernize the project are exempted from customs and taxes if they result in a productivity increase approved by the law.
- d- Any increase in the value of imported fixed assets shall be exempted from customs and taxes if the increase results of an increase in the prices at the country of origin or in the prices of freight or change in exchange rates.

Article (24)

Projects approved by the board that have the required license according to the law, shall be granted the following incentives as stipulated by this law:

- a- Any investment with a value from US\$ 100,000 to less than 1,000,000 shall be granted an exemption from income tax, when due, for five years, from the date of the start of production or activities. The investment shall be subject to income tax on net profit at a nominal rate of 10% for an additional eight years.
- b- Any investment of a value between US\$ 1,000,000 to 5,000,000 shall be granted an exemption from income tax, when due, for five years, from the date of the start of production or activities, and shall be subject to income tax on net profit at a nominal rate of 10% for an additional 12 years.
- c- Any investment of a value of US\$ 5,000,000 and above shall be granted an exemption from income tax for five years, when due, from the date of the start of production or activities, and shall be subject to income tax on net profits at a nominal rate of 10% for an additional 16 years.
- d- Private projects whether in quality or capital determined by a decision of the Council of Ministries upon the recommendation of the board shall be granted an exemption from income tax for five years from the date of the start of production or activities and shall be subject to income tax on net profit at a nominal rate of 10% for an additional 20 years.

Article (25)

- a- The Council of Ministries and upon the recommendation of the board can extend the exemption periods for a maximum of 5 years, for purposes of public interest according to the project's field of work and its geographical location and the extent of its contribution in increasing exports, creating job opportunities and promoting development.
- b- Exemption periods may be determined for projects in industrial or isolated zones or areas threatened by settlement activities. The

Council of Ministries shall determine the new industrial or isolated or threatened zones.

- c- Under all circumstances the exemption period shall be extended for an additional two years if the local component in the machines and equipment exceeded 60%. This percentage shall not include money invested in lands and buildings. The Board shall be responsible for the determination of this percentage.
- d- The National Authority shall be able to grant preferential treatment or special incentives and guarantees to the national investor.

Article (26)

- a- As soon as the investor provide all required information on the project as stated by the regulations, the Board shall evaluate these information and if it does not reject the request to enjoy the privileges stated in this law within 30 days from the date the request is submitted, then the project shall be qualified to enjoy these privileges.
- b- The Board shall issue approval of the investment at the end of the 30 days designated to evaluate the information without rejecting the project.

Article (27)

Regulations shall determine the mechanism to request from the Board through the Incentive committee, to confirm the investment as qualified to receive incentives.

Article (28)

Tax exemptions apply for five years to expansions in the projects approved by the board of directors, as of the start of production or activities of these expansions. Expansion means increase in the capital used to add new fixed capital assets that lead to an increase of the production power of goods and services or to produce what used to be imported or produce or provide new services and activities.

Article (29)

All profits distributed by the project at 10% of the original value of shareholders' share in the project's capital shall be exempted from income tax after the end of exemption period stated in articles (23,24). This exemption shall be at 20% of the original value of shareholders' share in the project's capital that is established according to the provisions of this law as a shareholder company launching its shares for subscription at no less than 40% of its capital.

Article (30)

- a- A project benefiting from investment incentives can be totally transferred to a new owner as appropriate as long as the project continues to operate as an existing investment.
- b- The new owner of a transferred project can benefit from investment incentives as long as he continues running the project as an existing investment.

Article (31)

All incorporate and fusing companies and constructions or companies that are split, or that change its legal status shall benefit from the approved exemptions before the fusion or division or change of its legal status for the whole period of exemption. The fusion or division or change of legal status shall not entail any new tax exemptions.

Article (32)

The Board can grant exceptional exemptions to projects involved in exportation on the condition that the percentage of production intended for exportation is not less than 30% of its total production. This shall be done within the standards of a special system and on the condition that the additional exemption period shall not exceed 3 years.

Article (33)

- A- The Board can cancel the confirmation of an investment if it discovers during its supervision of the projects benefiting from incentives, that the investor provided the Board with incorrect information regarding the proposed investment, information that influenced the decision of

the Board to confirm the investment as qualified to receive incentives, or that the investor hid information crucial for the Board's decision to confirm the investment as qualified to receive incentives. The Board shall determine and define the regulations, standards and procedures for the Board to practice the authority of cancellation.

- B- In the case where the project violates the provisions of this law , or does not abide by the defined conditions and goals, the board of directors shall have the right in pursuing procedures depending on the gravity of the violation and the conditions in which it was committed , as well as the extent of harm done to the national economy , and shall decide to shorten or cancel the period of exemptions , or cancel approval of the project.
- C- The investor shall have the right to appeal the Board's decision to cancel the investment confirmation under the procedures defined in the regulations.

Article (34)

In the case of amendments to incentives, then projects benefiting from these incentives may choose incentives stated in the amendment or continue to benefit from valid incentives before the amendment whatever is better.

Article (35)

If a project is transferred from one development zone to another within the granted exemption period, it shall be treated until the end of the period, and for exemption purposes, in the same manner as development projects to which it was transferred, on the condition that the Board is informed accordingly.

Article (36)

- a- Furniture imported for hotels and hospitals shall be exempted from customs and taxes.
- b- Electric and electronic machines and equipment for touristic projects, including hotels, shall be exempted from customs and taxes.
- c- Electric and electronic machines and equipment for hospital projects are exempted from customs and taxes.
- d- Projects for hotels and hospitals are granted additional exemptions from customs and taxes on their purchases of furniture, electric and

electronic machines and supplies for renovating and modernizing purposes once every five years on the condition that they are procured and brought in Palestine for use of the project within 2 years from the date the decision of approval of lists of purchases and their quantities is issued.

Article (37)

If it was discovered that all or some of the fixed assets exempted from customs and taxes were sold or used for other purposes than what was declared in the project, then the project shall be liable for all customs and taxes due according to the provisions of law and regulations.

Article (38)

- a- The investor shall inform the Board in written upon conclusion of installation and operation of fixed assets for the project purposes and the actual date for the beginning of production.
- b- The investor shall provide any information or statements regarding the fixed assets in the project and allow any authorized Board's employee to visit the site of the project and verify this information on the ground.

Article (39)

- a- The investor may sell or give up exempted fixed assets to any other investor beneficiary of the provisions of this law on the condition that the Board approves using these assets in the project.
- b- The investor may sell exempted fixed assets to any individual or project non beneficiary of the provisions of this law but has to inform the Board and pay all taxes and fees due.

Chapter Five

Conflict resolution

Article (40)

Provisions under this chapter apply to conflicts that may arise between investors and the National Authority regarding the rights and duties stipulated by the Investment law.

Article (41)

- a- If the investor or the National Authority believes that there is a conflict between them , then any side of them can request immediate engagement in negotiations according to the procedures defined by the regulations. Any party of the conflict may request to negotiate before resorting to settling the conflict as stated in paragraph (B) of this article.
- b- If negotiations fail to settle the conflict within the time frame determined by the regulations, then any party may refer the conflict to:
 - 1- Independent arbitration as stated in the regulations.
 - 2- Palestinian courts.

Chapter Six

Final Provisions

Article (42)

The Board may end all approvals granted a project if it discovers at any time that part or all the information submitted were incorrect or misleading .

Article (43)

This law shall not have negative impact on the approvals or incentives granted to investors and projects according to any relative previous laws. These approvals and incentives shall remain effective until its discontinuation or conclusion under the provisions of the law according to which they were issued.

Article (44)

All investments shall enjoy incentives granted according to this law except for:

Commercial projects, insurance, real estates (except development projects) banks, exchange companies, any financial institution (except for mortgage

Article (45)

If no other law stipulates a more severe penalty, each investor who submits false information or statements or have these information and statements in his books and accounts, or submits false information that enable him to receive incentives or privileges according to the provisions of this law, shall pay a fine of minimum 2,000 JD and not exceeding 5,000 JD, and all the incentives and privileges granted to him shall be withdrawn from the date he is fined.

Article (46)

Taking into consideration the provisions of article (43) of this law , this law shall replace all previous investment related laws.

Article (47)

The board of directors shall lay down the regulations and the resolutions necessary to implement the provisions of this law, to be issued upon the decision of the Council of Ministries and shall be published in the official gazette.

Article (48)

All relevant parties, each in his capacity, implement this law and abide by it after 30 days from the date it is published in the official gazette.